
(1996) 12 P&H CK 0007
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 18526 of 1996

S.R. Chaudhari

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 03-12-1996

Acts Referred:

Constitution of India, 1950 — Article 164(4)

Citation : (1997) 115 PLR 531

Hon'ble Judges : M.L. Singhal, J; Amarjeet Chaudhary, J

Bench : Division Bench

Advocate : S.R. Chaudhuri, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

Amarjeet Chaudhary, J.—In this writ petition filed by the petitioner under Article 226/227 of the Constitution of India, the petitioner seeks a writ in the nature of quo warrant directing respondent No. 2 to show cause as to by what authority or legal right, he holds the office of Minister of Transport in the Government of Punjab on the ground that the appointment is improper.

2. The case of petitioner, in brief, is that respondent No. 2 was appointed as a Minister in the cabinet headed by the former Chief Minister, S. Harcharan Singh Brar on 9.9.1995 and he remained so for a period of six months under the provisions of Constitution of India i.e. Article 164 (4). Since respondent No. 2 could not become a member of the Legislature within a period of six months, for whatever reasons, his resignation was accepted in compliance with provisions of Article 164 (4) of the Constitution. Following the election of Smt. Rajinder Kaur Bhattal, respondent No. 3, as leader of the Ruling Party and subsequently her appointment as Chief Minister of Punjab on 21.11.1996, a new Government has been installed in the State. Respondent No. 2 who had already enjoyed the privileges of a Minister for six months without being a member of the Legislature, has again been chosen and appointed Minister for Transport with effect from 23.11.1996. It has also been averred that Article 164(4) envisages two

situations. One, a person who is not a member of the Legislature can be appointed as a Minister and the second a person after having been appointed a Minister, loses his seat in the Legislature. In either eventuality, such a person shall cease to be a Minister if he is not elected or nominated as a member of the Legislature within six months or the date when he lost his seat in the Legislature. It is also averred that the appointment of respondent No. 2 as a Minister, for the second time, without being a member of the Legislature, and that, too, during the life of the same Legislature is improper and it militates against the democratic principles enshrined in the Constitution.

3. We have heard petitioner in person who is a practising Advocate and perused paper book.

4. There is no provision that one can be appointed as a Minister only once in a life for a period of six months especially when there is no semblance of continuity. As mentioned earlier, respondent Tej Parkash Singh was appointed and he ceased to be a Minister as he could not become a member of the Legislature. There is no bar that after the gap of six months, he could not be appointed as a Minister.

5. For the fore-going reasons, we find no merit in this writ petition which is dismissed in limine.